

SENATE BILL 1149

By Gresham

AN ACT to amend Tennessee Code Annotated, Section 49-5-511, relative to dismissal or suspension of teachers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-5-511(b)(1), is amended by deleting the section in its entirety and substituting instead the following:

49-5-511.

(a)

(1) No teacher shall be dismissed or suspended except as provided in this part.

(2) The causes for which a teacher may be dismissed or suspended are as follows: incompetence, inefficiency, neglect of duty, unprofessional conduct, and insubordination, as defined in § 49-5-501.

(3) A director of schools may suspend a teacher at any time that may seem necessary, pending investigation or final disposition of a case before the board or an appeal. If vindicated or reinstated, the teacher shall be paid the full salary for the period during which the teacher was suspended.

(4) When charges are made to the board of education against a teacher, charging the teacher with offenses that would justify dismissal of the teacher under the terms of this part, the charges shall be made in writing, specifically stating the offenses that are charged, and shall be signed by the party or parties making the charges.

(5) If, in the opinion of the board, charges are of such a nature as to warrant the dismissal of the teacher, the director of schools shall give the teacher

a written notice of this decision, together with a copy of the charges and a copy of a form, which shall be provided by the commissioner of education, advising the teacher as to the teacher's legal duties, rights, and recourse under the terms of this part.

(b)

(1) When it becomes necessary to reduce the number of teaching positions or nonlicensed positions in the system because of a decrease in enrollment or for other good reasons, the board shall be empowered to dismiss such teachers or nonlicensed employees based on their level of effectiveness determined by the evaluation pursuant to § 49-1-302 for licensed employees and an evaluation of work performance for nonlicensed employees.

(2) The board shall give the teacher or nonlicensed employee written notice of dismissal explaining fully the circumstances or conditions making the dismissal necessary.

(3) A teacher rated in the two (2) highest categories based on evaluations pursuant to 49-1-302 who has been dismissed because of abolition of a position shall be placed on a list for reemployment. Nothing in this subsection (b) shall be construed to deprive the director of schools of the power to determine the filling of such vacancy on the basis of the director's of schools evaluation of the teacher's competence, compatibility, and suitability to properly discharge the duties required for the vacant position considered in the light of the best interest of the students in the school where the vacancy exists. A principal may refuse to accept the placement or transfer of a teacher by the director of schools to the principal's school. The teacher's most recent evaluations shall be a factor in such determination.

(4) The right to remain on the preferred list for employment shall remain in effect until:

(A) The teacher accepts a bona fide offer of reemployment for a comparable position within the LEA; or

(B) The director, after the teacher has been on the preferred list for reemployment for two (2) consecutive years, notifies the teacher in writing by April 1 of the second consecutive year that the teacher's name will be removed from the list. A written notification to the teacher's last known address shall meet the requirements of the notification. The teacher receiving the notification shall retain the right to stay on the preferred list for reemployment by notifying the director of schools in writing by April 15 of each subsequent year of the desire to stay on the preferred list for reemployment.

(c)

(1) Notwithstanding subsection (a), but subject to the appeal and review provisions of §§ 49-5-512 and 49-5-513, any teacher convicted of a felony listed in § 40-35-501(i)(2) or convicted of an offense listed in § 39-17-417 shall be immediately suspended, and dismissed subject to subdivision (c)(2).

(2) If the dismissal of the teacher is upheld in the board and court reviews provided for in §§ 49-5-512 and 49-5-513, the director shall notify in writing the commissioner of education who shall begin licensure revocation proceedings under applicable rules of the state board of education.

SECTION 2. This act shall take effect July 1, 2013, the public welfare requiring it.